

MINUTES HEARING OFFICER AUGUST 4, 2015

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

STUDY SESSION 4:30 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Diane McGuire, Administrative Assistant II

Number of Interested Citizens Present: 3

Staff and the Hearing Officer discussed overview and updates to the scheduled cases for this hearing.

Ms. MacDonald referred to Agenda Item No. 9 – E-Cig City and the applicant's letter of intent, Paragraph 3 which stated "... any vapor production which should occur within the building will be immediately evacuated by keeping both front and back door open during hours of operation." Mr. Abrahamson questioned the applicant, Mr. Bird, who was present at this study session regarding this intended practice of keeping both doors open. Mr. Abrahamson noted that as the hours of operation are from 10 AM to 11 PM, keeping the back door open could be a security concern. Mr. Bird stated that he would reconsider that proposed practice.

REGULAR SESSION 5:00 PM

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Diane McGuire, Administrative Assistant II

Number of Interested Citizens Present: 4

Meeting convened at 5:00 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by August 18, 2015 at 3:00 PM, to the Community Development Department.

Ms. MacDonald noted that the following items had been removed from today's agenda:

- **Agenda Item No. 2**
Request approval to abate public nuisance items at the **WEARY PROPERTY (CE150084)** located at 332 East Ellis Drive. The applicant is the City of Tempe.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

- **Agenda Item No. 3**
Request approval to abate public nuisance items at the **PRAKASH PROPERTY (CE153344)** located at 3105 South Jentilly Lane. The applicant is the City of Tempe.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

- **Agenda Item No. 4**
Request approval to abate public nuisance items at the **KOEHLMOOS FAMILY TRUST PROPERTY (CM140952)** located at 2244 East Apache Boulevard. The applicant is the City of Tempe.

ABATEMENT REQUEST WITHDRAWN – PROPERTY IN COMPLIANCE

- **Agenda Item No. 5**
Request approval to abate public nuisance items at the **KOEHLMOOS FAMILY TRUST PROPERTY (CM150610)** located at 2236 East Apache Boulevard. The applicant is the City of Tempe.

ABATEMENT REQUEST CONTINUED TO AUGUST 18, 2015 HEARING OFFICER

- **Agenda Item No. 6**
Request approval to abate public nuisance items at the **KOEHLMOOS FAMILY TRUST PROPERTY (CM150611)** located at 2235 East McArthur Drive. The applicant is the City of Tempe.

ABATEMENT REQUEST CONTINUED TO AUGUST 18, 2015 HEARING OFFICER

- **Agenda Item No. 7**
Request approval for a use permit to expand a non-conforming use by 25% for the **MODERNETTE MOBILE HOME PARK (PL150223)** located at 1707 East Apache Boulevard. The applicant is Michael Cho.

APPLICANT WITHDREW REQUEST

- **Agenda Item No. 8**
Request for a use permit to allow a resale retail store and modeling workshop for **DIVINE INSTITUTE OF MODELING AND ETIQUETTE (D.I.M.E.) (PL150280)** located at 1440 North Scottsdale Road. The applicant is Tani Johnson.

CASE CONTINUED TO AUGUST 18, 2015 HEARING OFFICER

1. Vanessa MacDonald noted that the Hearing Officer Minutes for July 21, 2015 had been reviewed and approved.

2. Request approval for a use permit to allow a tobacco retailer for **FAIRLANES VILLAGE CENTER – E-CIG CITY (PL150276)** located at 4415 South Rural Road. The applicant is Andrew Bird/Sun Valley Vape LLC.

Steve Abrahamson, Principal Planner, reviewed this case, stating that the site is located on the east side of Rural Road within the Fairlanes Village Center in the PCC-2, Planned Commercial Center General District. The smoke shop will occupy 1,307 s.f. of retail space to sell E cigarettes, cartridges and accessories. This site is not located within 1,320 ft. of a school and a shared parking analysis had been completed. Hours of operation are from 10 AM to 11PM Sunday thru Saturday. The applicant has an existing location in Old Town Scottsdale and has experience in operating this type of use.

Andrew Bird of Sun Valley Nape LLC was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions of the commercial center.
- The proposed tobacco retail use is not in conflict with the General Plan or the surrounding neighborhood.
- The use is compatible with the existing structure and surrounding uses.
- The applicant is not proposing live entertainment and the use should not be a nuisance or create disruptive behavior.

DECISION:

Ms. MacDonald approved the use permit for PL150276 subject to the following conditions:

1. The use permit is valid only after a building permit has been obtained and the required inspections have been completed and a final inspection has been passed. An occupancy inspection and clearance from the Tempe Fire Department shall be obtained prior to the use permit becoming effective.
2. The use permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the City Attorney's office, the use permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit which may result in termination of the use permit.
4. Any intensification or expansion of use shall require a new use permit.
5. No outdoor live entertainment or outdoor speakers shall be allowed.
6. Live entertainment requires a separate use permit.
7. The rear exit doors shall remain closed at all times during business hours.

3. Request approval for a use permit to allow a monopole (monopine) and equipment for **VERIZON AZ01-013 HANCOCK (PL150279)** located at 1602 North Scottsdale Road. The applicant is Adam Brixius/Pinnacle Consulting Inc.

Sherri Lesser, Senior Planner, gave an overview of this case, noting that the applicant is seeking a use permit to allow a 65 ft. tall wireless communications facility, monopine and equipment shelter on the Anton Sports property at the northwest corner of Hancock Drive and Scottsdale Road. The monopine will be installed at the northeast side of

the site on the east side of the building. A neighborhood meeting was held on June 17, 2015 and staff has received a letter from the chairperson of Cavalier Hills NA stating their support for this project.

Ms. Lesser noted that, at the applicant's request, the title of this case has been changed to "Verizon Wireless – PHO_Starwoman/Sun State Towers – Hancock AZ01-013".

Mr. Adam Brixius of Pinnacle Consulting Inc. was present to represent this case. He acknowledged his understanding of the assigned Conditions of Approval.

Mr. Lane Carraway, chairperson of Cavalier Hills Neighborhood Association, was present and spoke in support of this request.

Ms. MacDonald noted that this request meets the requirements for a use permit:

- There will be no significant increase in vehicular or pedestrian traffic.
- There are no known nuisances arising from this use that would exceed the ambient conditions.
- There will be no impact to the surrounding area in deterioration or decreased property values.
- The use is compatible with the existing structure and surrounding uses.
- No disruptive behavior will be generated by this use.

DECISION:

Ms. MacDonald approved the use permit for PL150279 subject to the following conditions:

1. The use permit is valid for the plans as submitted within this application.
2. Obtain all clearances from the Building Safety Department prior to the use permit becoming effective.
3. The monopine shall have branches and needles that extend to fully screen antenna arrays and remote radio heads. Construction plans to depict the final details and shall be approved by planning staff prior to submittal for plan check.
4. Post emergency contact information for monopine and equipment where visible from enclosure exterior.
5. All equipment to be removed within 30 days of termination of use.
6. A landscape island is required to be installed next to the 'end-stall' created by the proposed location of the equipment and enclosure. The landscape island shall separate the enclosure from the parking space to the south.

The next Hearing Officer public hearing will be held on Tuesday, August 18, 2015 at 5:00 PM with a study session scheduled for 4:30 PM.

With no further business, the public hearing adjourned at 5:25 PM.

Prepared by: Diane McGuire, Administrative Assistant II

Reviewed by:



Steve Abrahamson, Principal Planner
for Vanessa MacDonald, Hearing Officer
SA:dm